

REMARKS

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Claims 1, 5, and 6 were amended and claims 2-4 were cancelled. Accordingly, claims 1, and 5-32 are pending in the application.

Claims 1-32 were rejected under 35 U.S.C. 103(a) as being unpatentable over McDaniel, U. S. Patent No. 6,663,659 in view of Altschuler, U.S. Patent No. 6,508,813. Applicant respectfully traverses these rejections. Claim 1 was amended to recite an applicator, including a cup in which a light emitter is housed, and also a replaceable hypoallergenic ring attached to the applicator to allow for removable attachment of the applicator to the zone of the mammalian skin. Neither McDaniel nor Altschuler teach or even suggest such a combination of elements.

McDaniel, as indicated by the Examiner, does not disclose a suction cup. While Altschuler does disclose a suction cup, Altschuler does not teach use of a hypoallergenic ring attached to an applicator to allow for removable attachment of the applicator to the zone of the mammalian skin. When air is removed from the suction cup, bellows or elastic ring of Altschuler, the negative pressure in the chamber causes the suction of the device onto the skin.

There is no mention at all in Altschuler of the use of an adhesive ring, and indeed, persons skilled in the art would not be induced to use such an adhesive ring and in fact would actively move away from using such a structure because the cup of Altschuler is a suction cup which can self fix to the skin of a patient. Thus, an adhesive ring in between the suction cup in the skin would not be necessary to carry out the invention of Altschuler. Moreover, even combining Altschuler with McDaniel would not provide an invention that would require an adhesive ring in between the suction cup and the skin of the patient to adhere the suction cup to the skin surface because Altschuler teaches only that removal of air from the suction cup provides for suction onto the skin of patient.

Moreover, Applicant has found a new and inventive technical effect of having a device that can be attached to the body and yet has the facility to be removed when required. As claimed in amended claim 1, the apparatus includes a replaceable hypoallergenic ring which

results in the apparatus being capable of being used on different patient's and yet not requiring resterilization because the hypoallergenic ring that fixes the apparatus to the patient is replaceable.

As can be seen from the prior art, a major problem is that the devices used come into contact with the skin and there is a need for the device to be cleaned before use on successive patients. Cleaning the devices disclosed in McDaniel and Altschuler after each use would result in a risk of damaging the light emitters and also increases the time required to clean and sterilize the apparatus between each use of the apparatus. Additionally, if the skin has an irregular surface or is greasy, a device relying on a suction cup to provide adhesion between the apparatus and the skin of a patient may not be able to maintain suction and would fall off the skin of the patient. This reduces the efficiency of treatment and can also be a risk to the user and the patient because dislodgement of the apparatus from the skin of the patient during treatment would allow for misdirection of the light, which could potentially be harmful.

As claimed by Applicant in amended claim 1, the replaceable hypoallergenic ring attached to the mouth of the cup can be removed from the cup each time a new patient is treated with the device and new ring placed on the cup ready for use with the next patient while maintaining cleanliness of the device. Also, by avoiding the need to sterilize the whole apparatus or even throw away the head of the apparatus, Applicant's claimed invention avoids having to sterilize the device which could affect the light emitters or alternatively, having to throw the whole head away which is not only expensive, but also environmentally unfriendly.

For all these reasons, Applicants believe that amended claim 1, and all the claims dependent therefrom are patentable over the cited art, taken alone or in combination, and respectfully requests that the rejections be withdrawn in the claims allowed.

CONCLUSION

Applicant has carefully reviewed the arguments presented in the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented. In light of the above amendments and remarks, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions concerning the above amendments and arguments, or any suggestions for further amending the claims to obtain allowance, Applicant requests that the Examiner contact Applicants attorney, John Fitzgerald, at 310-242-2667.

Please charge any additional fees payable in connection with this Amendment to our Deposit Account No. 06-2425.

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Respectfully submitted,

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